

2010 VITA and TCE

Grant & Cooperative Agreement Terms and Conditions

VITA Grant Orientation Conference
December 2, 2010

Presented by
Azell Turner, Tax Analyst



Discussion Overview


- VITA and TCE Grant agreements
- Terms and Conditions
- Prior Approvals
- Reports



VITA and TCE Agreements

Both the VITA and TCE Grant Agreements require the recipient to conform to the following:

- Proposed Program Plan
- Requirements as outlined in VITA Publication 4671 and TCE Publication 1101


12/2/2010  3

The following grant terms are the same for both VITA and TCE:

- Your proposed program plan is what the GPO has awarded and therefore is our expectation of your program.
- Expectation that your program will adhere to the requirements listed in the Publication 4671, *Volunteer Income Tax Assistance Grant Program – 2010 Program Overview and Application Package*, and the Publication 1101, *Tax Counseling for the Elderly – 2010 Application Package and Guidelines for Managing a TCE Program*.

VITA and TCE Agreements
(Cont'd.)

- **Any additional applicable statutory requirements**
- **Federal Grants administrative, financial and audit requirements as published by the Office of Management and Budget (OMB)**
(<http://www.whitehouse.gov/omb/circulars>)
- **Standard Form (SF) 424 (Application for Federal Assistance), Block 21, in which the applicant certifies to the list of assurances covered in the SF 424B**



12/2/2010 4

The Grant Program Office also expects its recipient to adhere to any statutory requirements established by the United States Government.

Grant administrative guidelines as published by the Office of Management and Budget (OMB) can be found on the website listed.

As part of the application, the Authorized Representative agrees to the list of assurances covered on the SF 424B. The SF 424B certifies that the applicant agrees to the 18 assurances listed. A few of the assurances are listed below:

- The recipient has the legal authority to apply for federal assistance and the ability to manage a federal program.
- The recipient will allow federal authorities access to and the right to examine documents related to the award.
- The recipient will to comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C Subsection 4728-4763) in relation to the standards for merit systems for program funds listed under the OMB Standards for a Merit System.
- The recipient will comply with all federal statutes related to nondiscrimination.
- The recipient will comply with the Hatch Act which limits political activities of employees who are paid by federal funds.
- The recipient will performed the required financial and compliance audits.
- The recipient will also comply with all applicable requirements of U.S. laws, orders, regulations and policies.

VITA and TCE Agreements

(Cont'd.)

- **Nonprocurement debarment and suspension rules adopted by Treasury (31 C.F.R Part 19, Section 19,6000)**
- **Drug-Free Workplace rules adopted by Treasury (31 CFR Part 20, Sections 19600 et seq.)**

Both rules are accessible at <http://ecfr.gpoaccess.gov>




VITA and TCE Agreements

(Cont'd.)

Requirements unique to the VITA Agreement:

- **The initial grant funds provided will not exceed the matching fund documents available at the time of award.**
- **The remaining grant funds will become available upon the receipt of additional documentation from recipient.**

12/2/2010 

Please send any additional documentation to the Grant Program Office as soon as possible.

VITA and TCE Agreements

(Cont'd.)

- **The due date for additional Matching Funds documentation is January 31, 2010**
- **The grant period is July 1, 2009 to June 30, 2010**



VITA and TCE Agreements

(Cont'd.)

Requirements unique to the TCE Agreement:

- **Section 163 of the Revenue Act of 1978, Public Law No 95-600, 92 Stat. 2810, November 6, 1978**
- **Published in the Federal Register at (44 F.R. 72113, December 13, 1979) which added subchapter H to the IRS's statement of Procedural Rules (26 C.F.R. Part 601)**

12/2/2010  8

Prints of Section 163 of the Revenue Act of 1978 and the IRS Procedural Rules attached.

VITA and TCE Agreements

(Cont'd.)

- **Revision of the Program Plan must be submitted by January 29, 2010**
- **The grant period is October 1, 2009 to September 30, 2010**



VITA and TCE

Terms and Conditions


VITA and TCE require recipients to adhere to the following Terms and Conditions which does not restate the provisions of applicable statutes and regulations, nor should contradict anything covered in Publication 4671 or Publication 1101.

(The terms and condition provided in the publications and OMB circulars takes precedence.)



VITA and TCE Terms & Conditions (Cont'd.)

- The Authorized Representative's signature on the VITA Form 13981 and the TCE Form 9661 signifies an agreement to all terms and conditions
- The recipient and sub-recipients must adopt and practice a non-discriminatory policy that meets all federal grant requirements
- Recipients must notify the IRS within 10 business days of any changes in key personnel




12/2/2010 11

The EEO/External Civil Rights presenter will address the federal requirements for a non-discriminatory policy.

Any changes to key individual listed for your program should be shared with the IRS's Grant Program Office within 10 days of the change. The new individual will be checked against the General Services Administration's Excluded Party Listing. This listing contains employer's name, individual's name, address, any violation codes and the name of the organization that recorded the violation.

VITA and TCE Terms & Conditions
(Cont'd.)

- The recipient must utilize the Department of Health and Human Service's (HHS) Payment Management System (PMS) for withdrawal of grant funds and reporting of expenditure
- The recipient must adhere to all reporting requirements
- The program must use Form 13614-C (Intake/Interview & Quality Review Sheet)
- The program must adhere to all Quality Site Requirements


12/2/2010  12

- More information in reference to Payment Management System will be provided by the HHS presenter and GPO staff.
- More in-depth information on the reporting requirements will also be covered by the HHS presenter and a member of the GPO staff.

The grant recipients are required to use the quality review sheet provided by the IRS and adhere to all quality standards.

VITA and TCE Terms & Conditions (Cont'd.)

- The IRS may terminate this agreement for reasons of default or failure of the recipient to perform its obligations under the agreement
- **No federal funds** will be provided to the Association of Community Organizations for Reform Now (ACORN) or any of its affiliate, subsidiaries, or allied organizations



12/2/2010 13

Your organization's award package contained a copy of the Memorandum for the Heads of the Executive Departments and Agencies, which was generated by the Director of the Office of Management and Budget in reference section 163 of the Continuing Appropriations Resolution, 2010, Division B of Pub. L. No. 111-68. This OMB guidance directs the Executive Branch agencies actions in relation to ACORN. Through the grant agreement, you are also required to adhere to this guidance.

VITA and TCE Terms & Conditions

(Cont'd.)

- **Maintain tax compliance during the grant periods**
- **Under 2 CFR 215 (formerly OMB Circular A-110), grant records must be retained for three years beginning the day the recipient submits its last expenditure report**

Grant records include, but not limited to:

- | | |
|--|------------------------------|
| •The general ledger | •Accounting source documents |
| •Personnel and payroll records | •Cancelled checks |
| •The Grant Agreement/
Cooperative Agreement | •Timesheets |



VITA and TCE Terms & Conditions

(Cont'd.)

Terms and Conditions unique to VITA:

- Revisions to the program plan and budget is due within **30** days of notification of award
- Budget changes of **25% or less** of the total award amount does not require prior approval



VITA and TCE Terms & Conditions
(Cont'd.)


**Terms and Conditions unique to
TCE:**

- **Revision of the Program Plan must be submitted by January 29, 2010**
- **Any revisions to the budget require pre-approval**



VITA and TCE
Prior Approvals


- **Change in scope or the objective**
- **The absence of key personnel for more than 3 months, or a 25% reduction in time devoted to the program**

12/2/2010  17

Report any issue that will negatively affect your organization's ability to meet its proposed plan or spend the grant funds available.

Reports
VITA Grant

- **Quarterly SF 425 – Federal Financial Report (FFR)**
- **A Year-end Report which consists of the following Documents:**
 - 1) SF PPR – Performance Progress Report
 - 2) SF PPR-A – Performance Measures, and
 - 3) SF PPR-B – Program Indicators
- **The report due date is
September 30, 2010**

12/2/2010  18

The reports will be covered in greater detail by the HHS Representative and a member of the GPO Staff.

Reports

TCE Grant

- Quarterly SF 425 – Federal Financial Report (FFR)
- Form 8654, Tax Counseling for the Elderly Quarterly/Final Program Report
- Preliminary Form 8654 and Preliminary Narrative Reports due by **June 30, 2010**
- Final Form 8654 Program Report and Final Narrative Report due **90 days after your program ends or by December 31, 2010.**



VITA and TCE Grant & Cooperative Agreement Terms and Conditions

Questions???

- **Contact your assigned Analyst**
- **Grant Program Office at 404-338-7894**
- **e-mail VITA at**
Grant.Program.Office@irs.gov
- **e-mail TCE at** tce.grant.office@irs.gov



Revenue Act of 1978 - Public Law 95-600

Section 163. TAX COUNSELING FOR THE ELDERLY

(a) TRAINING AND TECHNICAL ASSISTANCE

AGREEMENTS – The Secretary, through the Internal Revenue Service, is authorized to enter into agreements with private or public nonprofit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals in the preparation to their Federal income tax returns.

1. **OTHER ASSISTANCE** – In addition to any other forms of technical assistance provided under this section, the Secretary may provide –
2. preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;
3. materials to be used in making elderly persons aware of the availability of assistance under volunteer taxpayer assistance programs under this section; and technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY - In carrying out his responsibilities under this section, the Secretary is authorized -

1. to provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly;
2. to provide for the training of such volunteers, and to assist in such training, to insure that such volunteers are qualified to provide tax counseling assistance to elderly individuals;
3. to provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance under this section, and such other support and assistance as he determines to be appropriate in carrying out the provisions of this section;
 - a. to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefore; and
 - b. to prescribe such rules and regulations as he deems necessary to carry out the provisions of this section.

(c) EMPLOYMENT OF VOLUNTEERS

- (1) **IN GENERAL** – Service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.
- (2) **EXPENSES** – Amounts received by volunteers serving in any program carried out under this section as reimbursement of expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1954.

(d) PUBLICITY RELATING TO INCOME TAX PROVISIONS PARTICULARLY IMPORTANT TO THE ELDERLY – The Secretary shall, from time to time, undertake to direct the attention of elderly individuals to those provisions of the Internal Revenue code of 1954 which are particularly important to taxpayers who are elderly individuals, such as the provisions of section 37 (relating to credit for the elderly) and section 121 (relating to one-time exclusion of gain from sale of principal residence) of the Internal Revenue Code of 1954.

(e) DEFINITIONS – For purposes of this section

- (1) The term "Secretary" means the Secretary of the Treasury or his delegate.
- (2) The term "elderly individual" means an individual who has attained the age of 60 years as of the close of his taxable year.
- (3) The term "Federal income tax return" means any return required under chapter 61 of the Internal Revenue Code of 1954 with respect to the tax imposed on an individual under chapter 1 of such Code.

(f) AUTHORIZATION OF APPROPRIATIONS – There are authorized to be appropriated for the purpose of carrying out the provisions of this section \$2,500,000 for the fiscal year ending September 30, 1979, and \$3,500,000 for the fiscal year ending September 30, 1980.

Title 26: Internal Revenue
PART 601—STATEMENT OF PROCEDURAL RULES

Subpart H—Tax Counseling for the Elderly

Authority: Sec. 163(b)(5) of the Revenue Act of 1978, Pub. L. 95–600, Nov. 6, 1978 (92 Stat. 2811) and Pub. L. 89–554, Sept. 6, 1966 (80 Stat. 379, 5 U.S.C. 301).

Source: 44 FR 72113, Dec. 13, 1979, unless otherwise noted.

§ 601.801 Purpose and statutory authority.

(a) This Subpart H contains the rules for implementation of the Tax Counseling for the Elderly assistance program under section 163 of the Revenue Act of 1978, Pub. L. 95–600, November 6, 1978 (92 Stat. 2810). Section 163 authorizes the Secretary of the Treasury, through the Internal Revenue Service, to enter into agreements with private or public non-profit agencies or organizations for the purpose of providing training and technical assistance to prepare volunteers to provide tax counseling assistance for elderly individuals, age 60 and over, in the preparation of their Federal income tax returns.

(b) Section 163 provides that the Secretary may provide:

(1) Preferential access to Internal Revenue Service taxpayer service representatives for the purpose of making available technical information needed during the course of the volunteers' work;

(2) Publicity for making elderly persons aware of the availability of volunteer taxpayer return preparation assistance programs under this section; and

(3) Technical materials and publications to be used by such volunteers.

(c) In carrying out responsibilities under section 163, the Secretary, through the Internal Revenue Service is also authorized:

(1) To provide assistance to organizations which demonstrate, to the satisfaction of the Secretary, that their volunteers are adequately trained and competent to render effective tax counseling to the elderly in the preparation of Federal income tax returns;

(2) To provide for the training of such volunteers, and to assist in such training, to ensure that such volunteers are qualified to provide tax counseling assistance to elderly individuals in the preparation of Federal income tax returns;

(3) To provide reimbursement to volunteers through such organizations for transportation, meals, and other expenses incurred by them in training or providing tax counseling assistance in the preparation of Federal income tax returns under this section, and such other support and assistance determined to be appropriate in carrying out the provisions of the section;

(4) To provide for the use of services, personnel, and facilities of Federal executive agencies and State and local public agencies with their consent, with or without reimbursement; and

(5) To prescribe rules and regulations necessary to carry out the provisions of the section.

(d) With regard to the employment status of volunteers, section 163 also provides that service as a volunteer in any program carried out under this section shall not be considered service as an employee of the United States. Volunteers under such a program shall not be subject to the provisions of law relating to Federal employment, except that the provisions relating to the illegal disclosure of income or other information punishable under section 1905 of Title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

§ 601.802 Cooperative agreements.

(a) *General.* Tax Counseling for the Elderly programs will be administered by sponsor organizations under cooperative agreements with the Internal Revenue Service. Use of cooperative agreements is in accordance with the Federal Grant and Cooperative Agreement Act of 1977, Pub. L. 95–224, February 3, 1978 (92 Stat. 3, 41 U.S.C. 501–509). Cooperative agreements will be legally binding agreements in document form.

(b) *Nature and contents of cooperative agreements.* Each cooperative agreement will provide for implementation of the program in specified geographic areas. Cooperative agreements will set forth:

(1) The functions and duties to be performed by the Internal Revenue Service and the functions and duties to be performed by the program sponsor,

(2) The maximum amount of the award available to the program sponsor,

(3) The services to be provided for each geographical area, and

(4) Other requirements specified in the application.

(c) *Entry into cooperative agreements.* The Commissioner of Internal Revenue, the Director, Taxpayer Service Division, or any other individual designated by the Commissioner may enter into a cooperative agreement for the Internal Revenue Service.

(d) *Competitive award of cooperative agreements.* Cooperative agreements will generally be entered into based upon competition among eligible applicants.

(1) To be eligible to enter into a cooperative agreement, an organization must be a private or public non-profit agency or organization with experience in coordinating volunteer programs. Federal, state, and local governmental agencies and organizations will not be eligible to become program sponsors.

(2) Eligible applicants will be selected to enter into cooperative agreements based on an evaluation by the Internal Revenue Service of material provided in their applications. The Service will set forth the evaluative criteria in the application instructions.

(3) Determinations as to the eligibility and selection of agencies and organizations to enter into cooperative agreements will be made solely by the Internal Revenue Service and will not be subject to appeal.

(e) *Noncompetitive award of cooperative agreements.* If appropriations to implement the Tax Counseling for the Elderly program are received at a time close to when tax return preparation assistance must be provided or when other factors exist which make the use of competition to select agencies and organizations to enter into cooperative agreements impracticable, cooperative agreements will be entered into without competition with eligible agencies and organizations selected by the Internal Revenue Service. Determination of when the use of competition is impracticable will be made solely by the Internal Revenue Service and will not be subject to appeal.

(f) *Renegotiation, suspension, termination and modification.*

(1) Cooperative agreements will be subject to renegotiation (including the maximum amount of the award available to a sponsor), suspension, or termination if performance reports required by the cooperative agreement and/or other evaluations by or audits by the Internal Revenue Service or others indicate that planned performance goals or other provisions of the cooperative agreement, the regulations, or Section 163 of the Revenue Act of 1978 are not being satisfactorily met. The necessity for renegotiation, suspension, or termination, will be determined solely by the Internal Revenue Service and will not be subject to appeal.

(2) Cooperative agreements may be modified in writing by mutual agreement between the Internal Revenue Service and the program sponsor at any time. Modifications will be based upon factors such as an inability to utilize all funds available under a cooperative agreement, the availability of additional funds and an ability to effectively utilize additional funds, and interference of some provisions with the efficient operation of the program.

(g) *Negotiation.* If the proposed program of an eligible applicant does not warrant award of an agreement, the Internal Revenue Service may negotiate with the applicant to bring the application up to a standard that will be adequate for award. If more than one inadequate application has been received for the geographic area involved, negotiation to bring all such applications up to a standard will be conducted with all such applicants unless time does not permit negotiations with all.

§ 601.803 Program operations and requirements.

(a) *Objective.* The objective of the Tax Counseling for the Elderly program is to provide free assistance in the preparation of Federal income tax returns to elderly taxpayers age 60 and over, by providing training, technical and administrative support to volunteers under the direction of non-profit agencies and organizations that have cooperative agreements with the Internal Revenue Service.

(b) *Period of program operations.* Most tax return preparation assistance will be provided to elderly taxpayers during the period for filing Federal income tax returns, from January 1 to April 15 each year. However, the program activities required to ensure elderly taxpayers efficient and quality tax assistance will normally be conducted year round. Program operations will generally be divided into the following segments each

year: October—recruit volunteers; November and December—set training and testing schedules for volunteers, identify assistance sites, complete publicity plans for sites; December and January—train and test volunteers, set volunteer assistance schedules; January through May—provide tax assistance, conduct publicity for sites; May and June—prepare final reports and evaluate program; July and August—prepare for next year's program.

(c) *Assistance requirements.* All tax return preparation assistance provided under Tax Counseling for the Elderly programs must be provided free of charge to taxpayers and must be provided only to elderly individuals. An elderly individual is an individual age 60 or over at the close of the individual's taxable year with respect to which tax return preparation assistance is to be provided. Where a joint return is involved, assistance may be provided where only one spouse satisfies the 60 year age requirement.

(d) *Training and testing of volunteers.* Volunteers will normally be provided training and will normally be required to pass tests designed to measure their understanding of Federal tax subjects on which they will provide tax return assistance. Volunteers who do not receive a satisfactory score will not be eligible to participate in the program.

(e) *Confidentiality of tax information.* Program sponsors must obtain written assurance from all volunteers and all other individuals involved in the program, to respect the confidentiality of income and financial information known as a result of preparation of a return or of providing tax counseling assistance in the preparation of Federal income tax returns.

§ 601.804 Reimbursements.

(a) *General.* When provided for in cooperative agreements, the Internal Revenue Service will provide amounts to program sponsors for reimbursement to volunteers for transportation, meals, and other expenses incurred in training or providing tax return assistance and to program sponsors for reimbursement of overhead expenses. Cooperative agreements will establish the items for which reimbursements will be allowed and the method of reimbursement, e.g., stipend versus actual expenses for meals, as well as developing necessary procedures, forms, and accounting and financial control systems.

(b) *Direct, reasonable, and prudent expenses.* Reimbursements will be allowed only for direct, reasonable, and prudent expenses incurred as a part of a volunteer's service or as a part of the program sponsor's overhead.

(c) *Limitation.* Total reimbursements provided to a program sponsor shall not exceed the total amount specified in the cooperative agreement. The Internal Revenue Service shall not be liable for additional amounts to program sponsors, volunteers, or anyone else.

(d) *Availability of appropriated funds.* Expense reimbursements and other assistance to be provided by the Internal Revenue Service under cooperative agreements are contingent upon the availability of appropriated funds for the Tax Counseling for the Elderly program.

§ 601.805 Miscellaneous administrative provisions.

(a) *Responsibilities and relationship of Internal Revenue and program sponsor.* Substantial involvement is anticipated between the Internal Revenue Service and the program sponsors in conducting this program. Specific responsibilities and obligations of the Internal Revenue Service and the program sponsors will be set forth in each cooperative agreement.

(b) *Administrative requirements set forth in OMB and Treasury Circulars.* (1) The basic administrative requirements applicable to individual cooperative agreements are contained in Office of Management and Budget Circular No. A-110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Nonprofit Organizations (41 FR 32016). All applicable provisions of this circular and any existing and further supplements and revisions are incorporated into these regulations and into all cooperative agreements entered into between the Internal Revenue Service and program sponsors.

(2) Additional operating procedures and instructions may be developed by the Internal Revenue Service to direct recipient organizations in carrying out the provisions of this subpart, such as instructions for using letters of credit. Any such operating procedures or instructions will be incorporated into each cooperative agreement.

(c) *Joint funding.* Tax Counseling for the Elderly programs will not be eligible for joint funding. Accordingly, the Joint Funding Simplification Act of 1974, Pub. L. 93-510, December 5, 1974 (88 Stat. 1604, 42 U.S.C. 4251-4261) and Office of Management and Budget Circular No. A-111, Jointly Funded Assistance to State and Local Governments and Nonprofit Organizations (41 FR 32039), will not apply.

(d) *Discrimination.* No program sponsor shall discriminate against any person providing tax return assistance on the basis of age, sex, race, religion or national origin in conducting program operations. No program sponsor shall

discriminate against any person in providing such assistance on the basis of sex, race, religion or national origin.

[44 FR 72113, Dec. 13, 1979, as amended at 49 FR 36500, Sept. 18, 1984]

§ 601.806 Solicitation of applications.

(a) *Solicitation.* The Commissioner of Internal Revenue or the Commissioner's delegate may, at any time, solicit eligible agencies and organizations to submit applications. Generally, applications will be solicited and accepted in June and July of each year. Deadlines for submitting applications and the schedule for selecting program sponsors will be provided with application documents.

(1) Before preparing and submitting an unsolicited application, organizations are strongly encouraged to contact the Internal Revenue Service at the address provided in paragraph (b) (2) of this section.

(2) A solicitation of an application is not an assurance or commitment that the Internal Revenue Service will enter into a cooperative agreement. The Internal Revenue Service will not pay any expenses or other costs incurred by the applicant in considering, preparing or submitting an application.

(b) *Application.* (1) In the application documents, the Commissioner or the Commissioner's delegate will specify program requirements which the applicant must meet.

(2) Eligible organizations interested in participating in the Internal Revenue Service Tax Counseling for the Elderly program should request an application from the:

Program Manager, Tax Counseling for the Elderly,
Taxpayer Service Division TX:T:I, Internal Revenue
Service, 1111 Constitution Ave., N.W., Washington,
DC 20224, (202) 566-4904.